

# Exhibit 1

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION

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APPLETON PAPERS, INC and : Case No:  
NCR CORPORATION : 08-CV-00016-WCG  
:  
Plaintiffs :  
:  
-v- :  
:  
GEORGE A WHITING PAPER :  
COMPANY et al :  
:  
Defendants :

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VIDEOTAPED DEPOSITION  
OF  
MR DAVID HATTON  
On Friday, October 21st 2011

Commencing at 11.35 am

Taken at the offices of:  
Latham & Watkins LLP  
99 Bishopsgate  
London EC2M 3XF  
United Kingdom

Reported by: Miss Pamela Henley

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1 Hatton - Lytz

2 you began work at Wiggins Teape of the concern

3 that had arisen with relationship to Aroclor?

4 A. Yes --

5 MR KRAUSS: Object to form.

6 Mischaracterises his testimony.

7 MR BURGESS: Go ahead.

8 A. Yes, basically I think we were just

9 concerned that PCB being related to DDT there was

10 this concern about DDT accumulating in the body.

11 We had no previous concern about that, or evidence

12 about it, but obviously it was coming to light, we

13 were thinking, well, we need to be aware of what

14 is going on with this product.

15 (Exhibit 2 marked for identification)

16 MR LYTZ: Mr Hatton, the court

17 reporter has handed to you Exhibit 2 to your

18 deposition. This appears to be a June 6th, 1968

19 letter to D Cole from RE Lister, a two-page

20 document with a Bates range BCFOX00003780 through

21 3781. Would you take a moment, examine the

22 document and tell me if you recognise it (pause

23 for reading).

24 A. Yes, I recognise it as a document

25 that would have been in the files which I would

1 Hatton - Lytz

2 have seen.

3 (Exhibit 3 marked for identification)

4 Q. Mr Hatton, I have handed to you

5 what has been marked as Exhibit 3 to your

6 deposition. It is a two-page document with the

7 Bates range BCFOX00008139 through 8140. This

8 looks to be an October 6th, 1969 letter to you

9 from ML Maddy; do you recognise this document?

10 A. Yes.

11 Q. What is it?

12 A. What is it?

13 Q. (Nodded).

14 A. Basically a response to us having

15 asked them to give us information on DDT because

16 obviously we were beginning to hear about the

17 possibility of it being banned so this was

18 basically Arthur D Little giving us information on

19 what they had managed to find out.

20 Q. Was there a relationship between

21 DDT and PCBs that you were aware of or concerned

22 about in October of 1968?

23 MR KRAUSS: Objection, foundation.

24 MR McATEE: And leading. You

25 cannot lead witnesses you pay.

1 Hatton - Lytz

2 MR BURGESS: You can answer.

3 A. Were we aware of a relationship  
4 between PCBs and DDT? Yes, this is what this is  
5 about, I guess. They are part of the same family  
6 as far as we were concerned.

7 (Exhibit 4 marked for identification)

8 MR LYTZ: Mr Hatton, the court  
9 reporter has handed to you what has been marked as  
10 Exhibit 4 to your deposition. This appears to be  
11 a December 4th, 1969 memo from C Capps to AH  
12 Reynolds.

13 A. That is not the one I have here  
14 (same handed).

15 Q. I am sorry, what do you have? I  
16 have handed to you what has been marked as Exhibit  
17 4 to your deposition, a single page document with  
18 Bates number BCFOX00004027. This appears to be a  
19 copy of a December 22nd, 1969 letter from you to  
20 RE Lister?

21 A. Yes.

22 Q. Do you recognise this?

23 A. Yes.

24 Q. Is this a letter that you wrote to  
25 Mr Lister on or about December 22nd, 1969?

1 Hatton - Lytz

2 A. September 30th you are talking

3 about here, sorry, have I got the wrong...

4 Q. Are we...

5 A. You said December, this is 30th

6 September.

7 MR McATEE: I have 30th September

8 too.

9 MR LYTZ: I will start again. My

10 apologies.

11 Q. Mr Hatton, you have Exhibit 4

12 before you, a single page document with the Bates

13 number BCFOX00003816 which looks to be a letter

14 from you to RE Lister dated September 30th of

15 1969; do you recognise this document?

16 A. I do.

17 Q. What were you asking Mr Lister

18 about?

19 A. Basically apart from this it is

20 clear that we had picked up the article on DDT

21 being banned in Ontario and we were concerned

22 about where else it may get banned, and the fact

23 of Aroclor being a relative of DDT we need to be

24 aware of any such development elsewhere.

25 (Exhibit 5 marked for identification)



1 Hatton - Lytz

2 Q. Mr Hatton, the reporter has handed  
3 to you Exhibit 5, BCFOX00008147 through 8148, take  
4 a moment to examine the document, please, and tell  
5 me if you recognise it. (Pause for reading)

6 A. Yes, I do.

7 Q. You were a CC on this letter or  
8 this memo; do you remember receiving it some time  
9 in December of 1969?

10 A. Yes, I do.

11 Q. Who is AH Reynolds?

12 A. AH Reynolds, Alan Reynolds was a  
13 guy in the economic strategic part of the company.  
14 We had lots of different divisions. He had his  
15 men and, obviously, I suspect, from this that one  
16 of his guys had picked up information and fed it  
17 through to Clive.

18 Q. Who was WD Hoath?

19 A. Where are we?

20 Q. I am looking at the CC list at the  
21 bottom of the page.

22 A. That is WD Hoath, Bill Hoath, who  
23 was the senior guy in the Butler's Court  
24 hierarchy.

25 Q. There is a PS at the bottom

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1 Hatton - McAtee

2 time, was it?

3 A. Yes.

4 Q. Right?

5 A. Proven.

6 Q. None of that was proven --

7 A. None of it was proven at the time,

8 no, correct.

9 Q. -- in fact one of the positions

10 that your company took in this time period was

11 that substances such as alcohol and common salt

12 are more toxic than PCBs, right?

13 A. That was part of the -- yes, the

14 reporting system if you looked at the -- what they

15 called the straight toxicity of the material.

16 This is the dose that would kill people. Yes,

17 common salt and alcohol would likely kill you more

18 than Aroclor as a straight poison, if you like in

19 the system. Poison is a bad word, but, yes, that

20 was -- as a particular measurement they used

21 called an LD 50 which would indicate the relative

22 toxicity of products. Toxicity being quite

23 different from cumulative effects, which we were

24 not studying.

25 Q. Well, did you not have a scientist

1 Hatton - McAtee

2 study whether or not they could find any evidence

3 of 1242 as opposed to other Aroclor in wildlife?

4 Didn't you have that study in 1970 and 1971 and

5 '72?

6 A. Whether we could find it in

7 wildlife? I cannot recall it. I cannot recall it.

8 Q. Do you recall being told in

9 March 1970 by experts that you relied upon that

10 there was no real evidence of Aroclor 1242 residue

11 in wildlife?

12 A. I recall us not finding 1242 in

13 wildlife, yes.

14 Q. You recall there being no evidence

15 of an accumulation of Aroclor 1242 in wildlife at

16 that time, right?

17 A. Sorry, repeat the question.

18 MR BURGESS: Do you want it read

19 back?

20 THE WITNESS: Can you just repeat

21 that last question.

22 (Preceding question read back)

23 A. Correct.

24 BY MR McATEE:

25 Q. And that is what your scientists

1 Hatton - McAtee

2 were telling you and you relied upon that, right?

3 A. Correct.

4 Q. By the way, when -- did you -- you

5 have been retained by the lawyers for

6 Georgia-Pacific, is that true?

7 A. Yes.

8 Q. You have a consulting agreement

9 with them?

10 A. I do.

11 Q. They are paying you money for

12 looking at documents and for testifying?

13 A. Correct.

14 Q. You are being paid today?

15 A. Yes.

16 Q. What is your rate?

17 A. It is £140 an hour.

18 Q. Do you know the total amount, in

19 ballpark terms, of what you have been paid or will

20 be paid as a result of your consultancy?

21 A. I have not billed it yet, but it is

22 going to be about 15, 16 hours with the travel and

23 the first meeting. Something like that. Around

24 about that. Look at today as well and that will be

25 it.

1 Hatton - McAtee

2 Q. And you -- when they sent you a  
3 bunch of documents you looked at all those?

4 A. I did.

5 Q. And you billed them for that?

6 A. Yes.

7 Q. Did it come in a big binder in  
8 July?

9 A. Yes, it was July. Yes, in a big  
10 binder.

11 Q. Was it your understanding that that  
12 was an accumulation of documents that the lawyers  
13 for Georgia-Pacific wanted you to look at?

14 A. Correct.

15 Q. And it included many of the  
16 documents that you looked at on your direct  
17 examination today?

18 A. That is correct.

19 Q. When they sent you the binder of  
20 documents did they put in the binder the documents  
21 that you and others at Wiggins Teape had written  
22 making the conclusion that it was harmless, that  
23 it had gotten a clean bill of health, that the  
24 seals and the birds were not killed by PCBs, and  
25 that it was not toxic? Did they put those

1 Hatton - McAtee

2 documents in your binder?

3 A. There would have been documents.

4 Yes, everything I have seen, some of the things

5 you are saying, yes, yes.

6 Q. Did you recall seeing a letter that

7 you had written in December 1972 where you told a

8 government official that the old paper was

9 completely harmless and not toxic?

10 MR BURGESS: Do you want to show

11 him that?

12 MR McATEE: I want to know if he

13 remembers it being in his binder that the lawyers

14 for Georgia-Pacific sent to you.

15 A. I think I do recall it. Yes. Yes.

16 Q. So you have no doubt that you wrote

17 that letter in or about 1973?

18 A. If my name is on it I have written

19 it. No question.

20 Q. And that is what you and others at

21 Wiggins Teape believed during that time period,

22 right?

23 A. Yes. Yes. Yes.

24 Q. And that is what -- when you were

25 talking to Monsanto and NCR at meetings that is